

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

RECEIVED

SEP 2 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RECEIVED

SEP 2 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Petition to Establish Policies  
and Rules Pertaining to the  
Equal Access Obligations of  
Cellular Licensees

)  
)  
)  
)  
)  
)

RM-8012

COMMENTS OF GTE

GTE Service Corporation, on behalf of  
its cellular affiliates, GTE Mobilnet  
Incorporated and Contel Cellular, Inc.

Gail L. Polivy  
1850 M Street, N.W.  
Suite 1200  
Washington, D.C. 20036

September 2, 1992

THEIR ATTORNEY

Re: Cellular Service  
LAW OFFICE

0 + 3

## TABLE OF CONTENTS

	PAGE
SUMMARY	iii
BACKGROUND	1
DISCUSSION	3
Existing Commission policy does not require adoption of cellular equal access.	3
There is no need for the additional burden of cellular equal access.	5
The cost of implementing cellular equal access is substantial and far outweighs the benefits.	6
Cellular equal access would pose technical problems.	7
CONCLUSION	8

## SUMMARY

GTE strenuously opposes MCI's proposal for requiring equal access and presubscription for cellular carriers. Since the cellular market is highly competitive, the Commission should rely on market forces to implement the customer's choice rather than impose burdensome regulatory solutions. Cellular customers already have several options for accessing interexchange carriers. The Commission should proceed with caution before imposing additional regulatory obligations, especially without a finding of access abuse.

The proposed requirements could impair the cellular industry's efforts to provide a seamless, nationwide network of cellular systems. GTE believes that the cost of implementing an equal access plan such as that proposed by MCI would far outweigh the benefits to the public.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

**RECEIVED**

**SEP 2 1992**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Petition to Establish Policies	)	RM-8012
and Rules Pertaining to the	)	
Equal Access Obligations of	)	
Cellular Licensees	)	

**COMMENTS OF GTE**

GTE Service Corporation, on behalf of its cellular affiliates GTE Mobilnet Incorporated and Contel Cellular, Inc., ("GTE") hereby submits comments in response to the above-referenced MCI Telecommunications Corporation ("MCI") Petition for Rulemaking ("Petition"). MCI has asked the Commission to establish rules "to apply uniform, nationwide policies and rules to the provision of interexchange equal access by cellular licensees." Petition at 1.

GTE strenuously opposes imposing equal access obligations on cellular carriers. Since the cellular market is highly competitive, the Commission should rely on market forces to implement the customer's choice rather than impose burdensome regulatory solutions which could impair the cellular industry's efforts to provide a seamless, nationwide network of cellular systems. GTE believes that the cost of implementing an equal access plan such as that proposed by MCI would far outweigh the benefits to the public.

**BACKGROUND**

In adopting the cellular rules, the Commission created a competitive cellular environment. The Commission imposed obligations for reasonable

interconnection on the Local Exchange Carriers ("LECs") to assure that cellular carriers could interconnect into the landline system and that LECs could not favor affiliated cellular carriers.<sup>1</sup> Although there were obligations placed on the LECs to assure nondiscriminatory interconnection for the cellular carriers, there were no obligations placed on the cellular carriers to provide equal access or presubscription to interexchange carriers ("IXCs").

The Bell Operating Companies ("BOCs"), however, were required by the Modified Final Judgment ("MFJ")<sup>2</sup> to provide equal access through their cellular companies. This obligation has been interpreted to require BOC cellular carriers to provide presubscription to their cellular customers. The BOCs have strenuously objected to this requirement and have sought removal of this obligation from the Department of Justice and the District Court.<sup>3</sup>

Noting that only the Bell Operating Companies allow their cellular customers to presubscribe to an interexchange carrier, MCI suggests in its Petition that all cellular carriers should be required to provide IXC equal access and presubscription. MCI asks the Commission to establish rules requiring cellular carriers to offer a customer presubscription to his preferred IXC.

---

<sup>1</sup> An Inquiry into the Use of Bands 825-845 and 870-890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems, 86 F.C.C. 2d 469 (1981), recon. 89 F.C.C. 2d 58 (1982).

<sup>2</sup> U.S. v. Western Elec. Co., 552 F.Supp. 131 (D.D.C. 1982), aff'd mem. sub nom. Maryland v. U.S., 460 U.S. 1001 (1983).

<sup>3</sup> Motion of the Bell Companies for Removal of Mobile and Other Wireless Services from the Scope of the Interexchange Restriction and Equal Access Requirement of Section II of the Decree, U.S. v. Western Elec. Co., No. 82-0192 (D.O.J. Dec. 13, 1991).

## DISCUSSION

Existing Commission policy does not require adoption of cellular equal access.

Although MCI suggests that adopting a cellular equal access and presubscription policy would be consistent with the similar obligations imposed on the LECs, the underpinnings for the equal access requirements in the local exchange market are very different than the cellular market.

Equal access was required originally by the MFJ to assure that the BOCs provided access to interexchange carriers "equal in type, quality, and price to that provided to AT&T and its affiliates" as one of the conditions of the break-up of AT&T. This obligation was imposed to assure against preferential treatment by the BOCs for their previously affiliated interexchange carrier and to afford some protection to interexchange carriers against the BOCs' control of bottleneck facilities. Similar equal access obligations were placed on the GTE Telephone Companies at the time GTE acquired Sprint.<sup>4</sup> Certain equal access obligations were later placed on "independent" telephone companies.<sup>5</sup> The result was that equal access and presubscription obligations were imposed to protect against any favor based upon the partnership relationship which had existed between AT&T and the local exchange carriers prior to divestiture and to assure interexchange carriers access to bottleneck facilities.

The cellular market is very different from the pre-divestiture local exchange market. First, each local exchange carrier had a substantial and unique relationship with AT&T, either through corporate affiliation or through

---

<sup>4</sup> U.S. v. GTE Corp., Trade Cas. (CCH) ¶¶66,355 (D.D.C. 1984).

<sup>5</sup> MTS/WATS Market Structure (Phase II), 94 F.C.C. 2d 292, 298 (1983).

network partnerships. There have been no similar historical affiliations or partnerships between the cellular carriers and an interexchange carrier. The non-BOC cellular carriers had no special relationship with AT&T or any other IXC. Cellular carriers are resellers of the IXCs' services.

Second, the local exchange carriers had a monopoly with complete control over the local facilities. No one cellular carrier has complete bottleneck control over cellular facilities in any market. Cellular offerings vary widely and are extremely sensitive to customer needs and desires. The cellular companies have found that their services must be responsive to these customer demands. Because of these competitive pressures, customers already have a choice of cellular offerings. These choices include a variety of options including size and scope of the cellular area, the particular services offered, rate structures and other the terms and conditions. These options would also encompass the choice of and access to carriers for interexchange service. If customers perceive benefits from presubscription, experience has shown that the market will respond.

There is no need for the Commission to impose regulations, such as suggested by MCI, in this market. Instead the Commission should rely on the competitive environment to assure that customers have choices for the services they demand. While MCI simply concludes that equal access and presubscription should be imposed upon cellular carriers because it has been applied to LECs, the underlying rationale for imposing such conditions cannot support similar findings.

There is no need for the additional burden of cellular equal access.

Cellular service is used predominantly as a local service. While a cellular customer can use his cellular phone to make an interexchange call, most calls are local. GTE's experience confirms that in excess of 90% of its customers' cellular usage does not involve an IXC. Due to this overwhelmingly local usage, the justification for imposing additional obligations for this small percentage of calls which use an IXC is lacking.

The Petition claims that cellular customers are "forced to accept" service from the interexchange carrier chosen by the cellular provider, suggesting that most cellular customers do not have the opportunity to choose their preferred carrier for interexchange calls because there is no presubscription requirement on non-BOC cellular carriers. MCI's characterization is somewhat misleading. Even when there is no IXC presubscription per se, cellular customers can reach their interexchange carrier of choice in other ways.

For example, GTE cellular customers have several methods they can use to make an interexchange call through GTE's cellular system: The dial 1 option permits the customer to have his interexchange call billed directly to his cellular account and handled by the IXC arranged by the GTE cellular company. The customer can dial an 800 or 950 number provided by the IXC, and the call will be handled and billed by the chosen IXC.

Each of these methods offers the cellular customer options for billing and handling of the interexchange call. A customer is able to use the method best suited to him. Some prefer to have calls billed on their cellular phone bill. Others may prefer to have calls handled and billed through a particular IXC, thus having the ability to aggregate all IXC calls on one account. These options are currently available to GTE cellular customers. Since cellular customers already



have several options for choosing an interexchange carrier, the benefit to the public of imposing additional regulatory obligations on cellular carriers is not readily apparent.

It is not sufficient to simply assume that equal access requirements for cellular service are in the public interest, as asserted by MCI. While there may be benefits to the IXC's, this is not enough. The Commission, of course, must be concerned with the public interest not the IXC's' interest. GTE suggests that MCI's proposal is a solution for which there is no problem. The public would not benefit from these additional requirements.

The cost of implementing cellular equal access is substantial and far outweighs the benefits.

Implementing presubscription for cellular customers, of course, would involve additional costs to cellular carriers, which ultimately would be paid by cellular users. The Commission must consider these expenses and balance the costs against the benefits to the public of equal access and presubscription. On balance, GTE believes that the Commission will conclude that any possible benefits would be greatly outweighed by the costs involved.

GTE's existing cellular network cannot accommodate equal access and presubscription as suggested by the Petition. The network would have to be modified so that each switch would connect, on a dedicated or switched basis, to the participating IXC's. Additional costs would include the cost of switch software upgrades, switch hardware for additional trunks, trunk group facilities to establish trunk groups to all IXC's, billing and activation systems software upgrades and administrative costs. There would also be additional costs associated with the transition to an equal access/presubscription environment including costs of customer notification, balloting, order processing, records updating, as well as

other ongoing administrative costs. As with any regulatory requirement, there are also hidden costs of regulation. At this time, GTE cannot accurately predict the potential total cost of this proposal.

If the Commission were to decide to adopt a cellular equal access requirement, the issue of how these costs would be recovered must be addressed. Since cellular is a competitive service, it would be difficult to recover these costs from the end user customer. As the beneficiary of the arrangement, the IXC, should be required to pay the cost.

Especially in light of the limited public benefits to be gained, as discussed above, these additional costs are clearly not justified.

Cellular equal access would pose technical problems.

The MCI Petition does not address the significant technical obstacles which would arise in a cellular equal access and presubscription environment which could impair some services offered or to be offered by cellular carriers. GTE currently offers its cellular customers services which provides them cellular service even when they are not operating in their home cellular territory. Customers have the ability to make calls (roaming), receive calls (automatic call delivery) and continue calls in progress (intersystem handoff). These services are provided today through special arrangements between carriers and third-party providers. In an equal access environment, this system would require, at a minimum, significant modification.

If cellular carriers are required to provide equal access, they would be unable to provide roaming, automatic call delivery or intersystem handoff in today's technological environment which would significantly reduce the utility of cellular communications to the public.

CONCLUSION

GTE opposes imposing equal access obligations on cellular carriers. The market for cellular services is highly competitive. There is no need for the Commission to impose equal access and presubscription regulations in the competitive cellular market. Instead, the Commission should rely on the competitive environment to assure that customers have choices for the services they demand.

Respectfully submitted,

GTE Service Corporation, on behalf of  
its cellular affiliates, GTE Mobilnet  
Incorporated and Contel Cellular, Inc.

By

  
Gail L. Polivy

1850 M Street, N.W.

Suite 1200

Washington, D.C. 20036

September 2, 1992

THEIR ATTORNEY

## Certificate of Service

I, Jennifer R. McCain, hereby certify that copies of the foregoing "Comments of GTE" have been mailed by first class United States mail, postage prepaid, on the 2nd day of September, 1992 to the parties on the attached list:

  
Jennifer R. McCain

William F. Barfield  
Attorney  
BellSouth Corporation  
1155 Peachtree Street, N.E.  
Atlanta, GA 30367

Larry A Blosser  
Attorney  
MCI Telecommunications Corporation  
1801 Pennsylvania Ave., N.W.  
Washington, DC 20006

Raymond F Burke  
Vice President & General Counsel  
NYNEX Corporation  
1113 Westchester Avenue  
White Plains, NY 10604

James D. Ellis  
Senior Vice President & General Counsel  
Southwestern Bell Telephone  
One Bell Center, Suite 4208  
St. Louis, MO 63101

Stuart S. Gunckel  
Attorney  
US West, Inc.  
1801 California, Suite 5100  
Denver, CO 80202

Mark R Hamilton  
Executive Vice Pres.-External Affairs  
McCaw Cellular Communications, Inc.  
5400 Carillon Point  
Kirland, WA 98033

Thomas P Hester  
Senior Vice President and General Counsel  
Ameritech Corporation  
30 South Wacker Drive  
Chicago, IL 60606

Michael K. Kellogg  
Mayer, Brown & Platt  
2000 Pennsylvania Ave., NW  
Washington, DC 20006

Helen M Mickiewicz  
Attorney  
Public Utilities Commission  
of the State of California  
505 Van Ness Avenue  
San Francisco, CA 94102

Shapiro M. Stephen  
Mayer, Brown & Platt  
190 South LaSalle Street  
Chicago, IL 60603

Wayne Watts  
Vice President & General Attorney  
Southwestern Bell Mobile Systems, Inc.  
17330 Preston Rd., Suite 100A  
Dallas, TX 75252

James L. Wurtz  
Pacific Bell and  
Nevada Bell  
1275 Pennsylvania Ave. N.W.  
Washington, DC 20004